

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**December 7, 2005**

DIVISION ONE

B161305      Discover Bank                      (Certified for Publication)  
                 v.  
                 Superior Court, Los Angeles County  
                 (Boehr, r.p.i.)

The petition for writ of mandate is granted. We direct the trial court to vacate its July 11, 2002, order granting plaintiff's motion for reconsideration and to issue a new and different order denying same. The trial court's original order granting the motion to compel arbitration shall be reinstated in full, requiring plaintiff to arbitrate on an individual basis and submit to the class action waiver. Discover Bank is entitled to its costs on this writ proceeding.

Rothschild, J.

We concur:    Spencer, P.J.  
                 Vogel (Miriam A.), J.

DIVISION FIVE

B183257      People                                      (Not for Publication)  
                 v.  
                 Kirk Randall Thomas

The judgment is affirmed.

Kriegler, J.

We concur:    Turner, P.J.  
                 Mosk, J.

December 7, 2005 (Continued)

## DIVISION FIVE (Continued)

B177196      People      (Certified for Publication)  
v.  
Cary Ringo

The judgment is affirmed.

Kriegler, J.

We concur:   Turner, P.J.  
                      Mosk, J.

B170148      Hassen Real Estate Partnership      (Not for Publication)  
v.  
ARG Enterprises

The judgment is affirmed. Respondent(s) to recover costs.

Armstrong, J.

I concur: Turner, P.J.  
I dissent: Mosk, J. (Opinion)

B182242 Kenneth Tab  
v.  
Farideh Zandi

Filed order denying petition for rehearing.

DIVISION SIX

B176971      People  
v.  
Ortiz

Filed order modifying opinion. Petition for rehearing is denied.  
(No change in the judgment)

December 7, 2005 (Continued)

**DIVISION SIX (Continued)**

B182510 Lamb (Not for Publication)

V.

# Santa Barbara Montessori School

The judgment of dismissal is affirmed. Costs are awarded to respondent.

Perren, J.

We concur: Yegan, Acting P.J.  
Coffee, J.

B179760 People (Not for Publication)

V.

Silguero et al.

The judgments are affirmed.

Coffee, J.

We concur: Yegan, Acting P.J.  
Perren, J.

B178096      Spooner      (Not for Publication)

V.

City of Grover Beach et al.,

The judgment is affirmed. Costs are awarded to respondent.

Gilbert, P.J.

We concur: Yegan, J.  
Coffee, J.

December 7, 2005 (Continued)

## DIVISION SEVEN

B182436 People (Not for Publication)  
v.  
Harco National Insurance Company

The judgment is affirmed. Respondent(s) to recover costs.

Woods, J.

We concur:   Johnson, Acting P.J.  
                      Zelon, J.

B177484      Pinner Construction Co., Inc.,      (Not for Publication)  
v.  
Los Angeles Unified School District  
Bernard Bros. Inc.,

The judgment is affirmed. Respondent and real party in interest are awarded costs of appeal.

Woods, J.

We concur: Perluss, P.J.  
Johnson, J.

B183353 People (Not for Publication)  
v.  
Adam T.,

The judgment is affirmed.

Perluss, P.J.

We concur:   Johnson, J.  
                      Zelon, J.

DIVISION SEVEN (Continued)

B177558      Agnew      (Certified for Publication)

v.

State Board of Equalization

The portion of the judgment denying Agnew an award of costs under Code of Civil Procedure section 1032, subdivision (b) is reversed. The matter is remanded to the trial court to determine an appropriate award of costs to Agnew as the prevailing party in the litigation, as possibly augmented by an award of expert witness fees under Code of Civil Procedure section 998. In all other respects the judgment and orders are affirmed. Agnew is awarded his costs on appeal.

Johnson, J.

We concur:   Perluss, P.J.

                 Woods, J.

B181261      Los Angeles County, D.C.S.      (Not for Publication)

v.

Montgomery S.,

The order sustaining the petition under section 300, subdivision (b) is reversed as to the father, Montgomery S., only. In all other respects the order is affirmed. The order finding placement with the father, Montgomery S., would be detrimental to the safety, protection and physical or emotional well-being of the child, DeAnthony M., is reversed and the cause remanded to the juvenile court to conduct a new disposition hearing consistent with the views expressed in this opinion. Upon remand the juvenile court shall order the Department of Children and Family Services to give proper notice under the Indian Child Welfare Act, if it has not already done so, and the court shall not make any order terminating parental rights until it determines such proper notice has been given.

Johnson, Acting P.J.

We concur:   Woods, J.

                 Zelton, J.

## December 7, 2005 (Continued)

## DIVISION SEVEN (Continued)

B177569 People (Not for Publication)  
v.  
Delaine

The judgment is affirmed.

Johnson, Acting P.J.

We concur: Woods, J.  
Zelon, J.

B174223      People      (Not for Publication)  
v.  
Allen

The concurrent terms imposed on counts 1 and 6 are stayed. The gun use enhancement imposed on the subordinate term in court 2 is reversed. In all other respects the judgment is affirmed and the case is remanded for resentencing in accordance with this opinion.

Johnson, J.

We concur: Perluss, P.J.  
Zelon, J.

B174404      Yaselli      (Not for Publication)  
v.  
California Insurance Guarantee Association

The judgment of the Superior Court is affirmed. Respondent(s) to recover costs.

Zelon, J.

We concur: Perluss, P.J.  
Woods, J.

DIVISION SEVEN (Continued)

B183745      Los Angeles County, D.C.S.      (Not for Publication)  
                 v.  
                 Patricia O.,

The judgment is affirmed.

Johnson, Acting P.J.

We concur:    Woods, J.  
                 Zelon, J.

DIVISION EIGHT

B170330      People      (Not for Publication)  
                 v.  
                 Acosta

The judgment is affirmed.

Rubin, J.

We concur:    Cooper, P.J.  
                 Boland, J.

B181628      People      (Not for Publication)  
                 v.  
                 Beavers

The judgment is affirmed.

Rubin, J.

We concur:    Cooper, P.J.  
                 Boland, J.

## December 7, 2005 (Continued)

## DIVISION EIGHT (Continued)

B168810 People (Not for Publication)  
v.  
Liddell

The judgment is affirmed.

Rubin, J.

We concur: Cooper, P.J.  
Boland, J.

B174895 People (Not for Publication)  
v.  
Stevenson

The matter is remanded to the trial court with directions to correct the minute order to accurately reflect that no statement of aggravating or mitigating circumstances was made by the sentencing court. In all other respects, the judgment is affirmed.

Rubin, Acting P.J.

We concur: Boland, J.  
Flier, J.

B179863      People  
v.  
Milla

Filed order vacating submission order of September 29, 2005. Additional briefing ordered.